

“STATE OF THE COURT” ADDRESS
Third Biennial Bench Bar Conference
Baltimore - October 18, 2002

First, let me say how pleased I am at the very substantial attendance this biennial conference continues to attract. The credit for that goes to the hard work of Jim Nolan and the other lawyers on the Federal Bar Liaison committee who have devoted their time to organizing this event, to our Clerk Felicia Cannon and her dedicated staff, and, I must add, to my own chambers staff. This conference could not take place without many hours of effort, much of it behind the scenes, and all of those who have contributed deserve our thanks and applause.

I also want to thank the judges and staff who participated in the panel discussion of recent cases, the CM/ECF demonstration, the breakout sessions, and of course Judge Grimm’s excellent presentation on Daubert. This is truly a District-wide conference, as illustrated by the extensive involvement of our Southern Division colleagues. We were in Greenbelt two years ago, and I hope we will be there again in 2004. The conference has proven itself as a valuable opportunity for all of us to hear your concerns, and exchange ideas, with a view to improving what is already an excellent relationship between the bench and the bar throughout the District of Maryland.

This part of the program is rather augustly titled the “State of the Court”. I am in no better position to describe that state than any of you - in fact, we should probably be asking the members of the bar to tell us what shape the court is in, because you and your clients are the best judges of our performance. (I hope the breakout sessions served some of that purpose, and we look forward to hearing what the lawyers report back.) But I will take this opportunity to comment, briefly, on some of the events and accomplishments of the past two years, and what may be the direction of the future.

One of the crucial concerns of the court, or any public institution today, is confronting the

multiple assaults on our security, and on our sense of safety as a country and as individual citizens. We are enduring the aftermath of September 11th, the continuing gunfire in our urban areas, the random violence of the sniper, and the increasing threat of war. This diverts resources, affects our criminal caseload, heightens the need for emergency planning, and strains the judiciary's budget. We are currently operating under a continuing resolution that provides only partial funding and only at reduced 2002 levels, presenting a real challenge to our court unit executives as they are called on to do more with fewer dollars.

I mentioned the criminal caseload. One of the changes since our last bench bar conference has been the appointment of a new United States Attorney, Thomas M. DiBiagio, and with him has come a reordering of priorities in that office. Political rhetoric to the contrary, however, there has been no lessening of the emphasis on combating violent crime through cooperative federal, state and local professional law enforcement efforts, indeed there may have been an increase. While the absolute number of indictments has declined, we have seen a substantial number of death penalty and other significant prosecutions of violent offenders, usually involving a combination of guns and drugs or, for variety, drugs and guns. As our Marshal's Office has noted for some time, without ignoring the threat of terrorism, the more present security threat to the proceedings in this courthouse is caused by the high-risk multiple-defendant criminal trials that must be conducted. These trials, particularly where the death penalty is possible, also pose a severe burden on our Public Defender's Office, the CJA Panel attorneys, and our CJA Supervising Attorney, Donna Shearer. The continuing lack of a federal pretrial detention center, and the inadequacies of the present facilities, simply add to that burden.

This is a good opportunity for me to emphasize, as we have before, how much all the

judges appreciate the superb work done by public defenders and panel attorneys in this District, and how critical the exceptional service provided by Ms. Shearer is in enabling us to manage a very demanding criminal caseload. The pilot project funding Ms. Shearer's position came to an end in March of this year, and to our great regret the Judicial Conference has not yet been persuaded to authorize permanent funding, despite the obvious value of her work. We are committed to maintaining her position, which has put another strain on our District-wide budget.

It occurs to me that I am sounding much too serious and even pessimistic, which is not appropriate to this fine occasion, so let me mention some more positive accomplishments and prospects for the future. As you have heard, CM/ECF is coming, for the bankruptcy court as well as the District Court. It is exciting, not only for the improved communication it offers but also because its implementation illustrates the outstanding skill, hard work, and cooperation of our automation and operations staff, our judges' chambers staff, and even the judges themselves. Most important for today's conference, it illustrates the excellent cooperation we receive from members of the bar in designing and planning for change, whether it is CM/ECF, Local Rules, discovery guidelines, or even the campaign for a federal pretrial detention center. We rely on your cooperation and involvement in courthouse activities, and we appreciate your pro bono service of all kinds.

On the civil side of the caseload, our numbers are up, reaching a high of over 4500 cases filed for the twelve-month period ending September 30, 2002. Some of this increase is attributable to the substantial number of removals being filed from the state courts, particularly in the product liability area. We also have seen a dramatic increase in Social Security appeals, for which the Judicial Council gave us funds to support an additional, but unfortunately temporary,

law clerk for the magistrate judges. Our District also has been recognized by the assignment of numerous MDL cases to our judges, including Microsoft, cruciferous sprouts, protegen slings, and cell phones. At last count we had a total of 573 MDL cases. We rely on our Clerk's Office to docket and handle the filings for us, which they do very well.

Another area of accomplishment and change is courthouse construction and renovation. I am delighted to report that the inadequate facilities in the Salisbury post office long used by one of our part-time magistrate judges and our bankruptcy trustee are finally about to be replaced. A modern and fully accessible courtroom on the first floor is nearing completion and should be open for business before the end of the year. Two new high-tech courtrooms on the seventh floor in Baltimore also should be complete this year, helping us catch up with our colleagues in Greenbelt who have had a high-tech courtroom in operation for some time now. (Incidentally, the history of the Southern Division has been chronicled in a new best seller, soon to be a major motion picture, *The Courthouse at Indian Creek*. Seriously, the book offers an interesting and comprehensive picture of a federal courthouse at work.)

Construction on a much larger scale is part of our District's long-term future. Baltimore is on the site and design list for a new courthouse in 2005; Greenbelt is on the list for site and design of a much needed annex in 2006. Actual construction and occupancy, even assuming we are funded in the Congressional budget, is at least ten years away, but the process of identifying our space needs is already underway. We will welcome the bar's input as we (and GSA) look for a suitable location for a new courthouse in Baltimore City. In the meantime, efforts to maintain and improve our present courthouse continue: the Lincoln Pardon has been installed in the second floor conference room, the reproduction of the pardon has been hung in the first floor

lobby, and plans are being made for historical displays on several floors of the courthouse. Greenbelt continues its practice of involving the county arts councils in changing displays of artwork on the courthouse walls. Judges and staff in both courthouses also continue the practice of hosting international delegations and, in turn, traveling to other countries to discuss legal and administrative issues of common concern. Just this week Judge Garbis hosted a group of Russian judges and lawyers, who were able to see an entire criminal jury trial(a bank robbery), from start to finish, even participating in mock deliberations with the alternates. You might be interested to know that the Russians, who put no evidentiary value on in-court eyewitness identification, would have acquitted the defendant, but the American jury convicted. Our Assistant Federal Public Defender who tried the case is thinking of moving to St. Petersburg.

Let me say a few words about transition, and I will bring these remarks to an end. The court was saddened by the loss of two fine colleagues this year: Senior Judge Herbert N. Maletz, who sat with us by designation for some 15 years, died in January 2002, and our former Chief Magistrate Judge Daniel E. Klein, Jr., passed away in February 2002, after a lengthy and courageous fight with cancer. He has been honored by the dedication of one of our magistrate judge's conference rooms to his memory. In addition, Senior Judge Joseph H. Young retired from active judicial work in July 2002, although I know he will do his best to remain active in other pursuits, and we appreciate his many years of service on the bench. Judge William M. Nickerson took senior status in June 2002, creating a vacancy on the district judge bench for the first time since 1995. On the bankruptcy court side, we have a new Chief Judge, Jim Schneider, and a new Clerk of Court, Mark Sammons. The bankruptcy court maintains its historically high level of filings, without receiving from Congress the additional judgeships they should have, but

our colleagues and the Clerk continue to handle that caseload efficiently and well. This year also brought the reappointment of Chief Magistrate Judge Jill Schulze to a new eight-year term, with several other colleagues to follow. This District has an outstanding group of magistrate judges, as you know. Particularly in light of the increasingly demanding criminal caseload, I urge you all to encourage your clients to consent to civil jury and bench trials before the magistrate judges, who can handle the trial as well (or better than) a district judge and will not have to postpone your case to preside over a felony criminal trial.

Turning to the court agencies, we have a new Chief Probation Officer, Bill Henry, who has brought his excellent management skills from Pretrial Services to preside over a recently consolidated Probation and Pretrial Services department. We also welcomed a new Marshal, Johnny Hughes, with years of law enforcement experience. He and his Chief Deputy Don Donovan and their staff, as well as the Court Security Officers, keep us safe every day.

Finally, we have a new Chief Judge, Fred Smalkin, who welcomed you here today. Many of you came to the ceremony last year marking the transition from Chief Judge Fred Motz to Chief Judge Smalkin. We did not know that health problems (fortunately not life-threatening), would require Judge Smalkin to give up that position, as he now plans to do in January 2003. I have enjoyed the opportunity to serve as Administrative Judge with both Judge Smalkin and, before him, Judge Motz. In January another fine colleague, Ben Legg, will take over as Chief Judge, and I will hand over my additional administrative duties to him. He will have my full support, and that of all the judges, in maintaining the standards of excellence set by the long line of distinguished chief judges in this District.

Finally, I have come to an end. Thank you all very much for being here today, and let us

enjoy the reception that is waiting for us in the lobby. The conference is adjourned

Catherine C. Blake
Administrative Judge